

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN SENATE JULY 8, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 21, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 56**

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**Introduced by Assembly Member Portantino**

December 5, 2008

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An act to amend Section 1367.65 of, and to add Section 1367.651 to, the Health and Safety Code, and to amend Section 10123.81 of, and to add Section 10123.815 to, the Insurance Code, relating to health care coverage.

### **LEGISLATIVE COUNSEL'S DIGEST**

AB 56, as amended, Portantino. Health care coverage: mammographies.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide coverage for mammography for screening or diagnostic purposes upon referral by a

participating nurse practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law. Under existing law, an individual or group policy of disability insurance that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide specified coverage based upon age for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law.

This bill would provide that health care service plan contracts and individual or group policies of health insurance issued, amended, delivered, or renewed on or after July 1, 2010, shall be deemed to provide coverage for mammographies for screening or diagnostic purposes upon referral of a participating nurse practitioner, participating certified nurse-midwife, participating physician assistant, or participating physician, as specified. The bill would, commencing July 1, 2010, require plans and insurers subject to these provisions to provide ~~enrollees or insureds~~ *subscribers or policyholders* with information regarding recommended timelines for an individual to undergo tests for the screening or diagnosis of breast cancer, as specified.

Because this bill would specify an additional requirement for a health care service plan, the willful violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1367.65 of the Health and Safety Code
- 2 is amended to read:
- 3 1367.65. (a) On or after January 1, 2000, every health care
- 4 service plan contract, except a specialized health care service plan
- 5 contract, that is issued, amended, delivered, or renewed shall be
- 6 deemed to provide coverage for mammography for screening or

1 diagnostic purposes upon referral by a participating nurse  
2 practitioner, participating certified nurse midwife, or participating  
3 physician, providing care to the patient and operating within the  
4 scope of practice provided under existing law.

5 (b) On or after July 1, 2010, every health care service plan  
6 contract, except a specialized health care service plan contract,  
7 that is issued, amended, delivered, or renewed shall be deemed to  
8 provide coverage for mammography for screening or diagnostic  
9 purposes upon referral by a participating nurse practitioner,  
10 participating certified nurse midwife, participating physician  
11 assistant, or participating physician, providing care to the patient  
12 and operating within the scope of practice provided under existing  
13 law.

14 (c) Nothing in this section shall be construed to prevent  
15 application of copayment or deductible provisions in a plan, nor  
16 shall this section be construed to require that a plan be extended  
17 to cover any other procedures under an individual or a group health  
18 care service plan contract. Nothing in this section shall be construed  
19 to authorize a plan enrollee to receive the services required to be  
20 covered by this section if those services are furnished by a  
21 nonparticipating provider, unless the plan enrollee is referred to  
22 that provider by a participating ~~physician, nurse practitioner, or~~  
23 ~~certified nurse midwife~~ provider identified in subdivision (a) or  
24 (b), as applicable, providing care to the patient.

25 SEC. 2. Section 1367.651 is added to the Health and Safety  
26 Code, to read:

27 1367.651. Commencing July 1, 2010, a health care service  
28 plan subject to Section 1367.6 or 1367.65 shall provide ~~an enrollee~~  
29 *a subscriber* with information regarding recommended timelines  
30 for an individual to undergo tests for the screening or diagnosis of  
31 breast cancer. This information may be provided by written letter  
32 sent to the ~~enrollee subscriber~~, by publication in a newsletter sent  
33 to the ~~enrollee subscriber~~, by publication in evidence of coverage,  
34 by direct telephone call to the ~~enrollee subscriber~~, by electronic  
35 transmission, by Web-based portal containing various plan and  
36 benefit information if the ~~enrollee subscriber~~ has access to that  
37 portal, or by any other means that will reasonably notify the  
38 ~~enrollee subscriber~~ of the recommended timelines for testing.  
39 Communications made by a plan's contracted providers that satisfy

1 the requirements of this section shall constitute compliance by the  
2 plan with this section.

3 SEC. 3. Section 10123.81 of the Insurance Code is amended  
4 to read:

5 10123.81. (a) On or after January 1, 2000, every individual  
6 or group policy of disability insurance or self-insured employee  
7 welfare benefit plan that is issued, amended, or renewed, shall be  
8 deemed to provide coverage for at least the following, upon the  
9 referral of a nurse practitioner, certified nurse-midwife, or  
10 physician, providing care to the patient and operating within the  
11 scope of practice provided under existing law for breast cancer  
12 screening or diagnostic purposes:

13 (1) A baseline mammogram for women age 35 to 39, inclusive.

14 (2) A mammogram for women age 40 to 49, inclusive, every  
15 two years or more frequently based on the women's physician's  
16 recommendation.

17 (3) A mammogram every year for women age 50 and over.

18 (b) On or after July 1, 2010, every individual or group policy  
19 of health insurance that is issued, amended, delivered, or renewed  
20 shall be deemed to provide coverage for mammography for  
21 screening or diagnostic purposes upon referral by a participating  
22 nurse practitioner, participating certified nurse-midwife,  
23 participating physician assistant, or participating physician,  
24 providing care to the patient and operating within the scope of  
25 practice provided under existing law.

26 (c) Nothing in this section shall be construed to require an  
27 individual or group policy to cover the surgical procedure known  
28 as mastectomy or to prevent application of deductible or copayment  
29 provisions contained in the policy or plan, nor shall this section  
30 be construed to require that coverage under an individual or group  
31 policy be extended to any other procedures.

32 (d) Nothing in this section shall be construed to authorize an  
33 insured or plan member to receive the coverage required by this  
34 section if that coverage is furnished by a nonparticipating provider,  
35 unless the insured or plan member is referred to that provider by  
36 a participating provider identified in subdivision (a) or (b), as  
37 applicable, providing care to the patient.

38 (e) This section shall not apply to specialized health insurance,  
39 Medicare supplement insurance, short-term limited duration health  
40 insurance, CHAMPUS supplement insurance, TRI-CARE

1 supplement insurance, or to hospital indemnity, accident-only, or  
2 specified disease insurance.

3 SEC. 4. Section 10123.815 is added to the Insurance Code, to  
4 read:

5 10123.815. (a) Commencing July 1, 2010, a health insurer  
6 subject to Section 10123.8 or 10123.81 shall provide ~~an insured~~  
7 *a policyholder* with information regarding recommended timelines  
8 for an individual to undergo tests for the screening or diagnosis of  
9 breast cancer. This information may be provided by written letter  
10 sent to the ~~insured policyholder~~, by publication in a newsletter sent  
11 to the ~~insured policyholder~~, by publication in evidence of coverage,  
12 by direct telephone call to the ~~insured policyholder~~, by electronic  
13 transmission, by Web-based portal containing various plan or  
14 policy and benefit information if the ~~insured policyholder~~ has  
15 access to that portal, or by any other means that will reasonably  
16 notify the ~~insured policyholder~~ of the recommended timelines for  
17 testing. Communications made by an insurer's contracted providers  
18 that satisfy the requirements of this section shall constitute  
19 compliance by the insurer with this section.

20 (b) This section shall not apply to specialized health insurance,  
21 Medicare supplement insurance, short-term limited duration health  
22 insurance, CHAMPUS supplement insurance, TRI-CARE  
23 supplement insurance, or to hospital indemnity, accident-only, or  
24 specified disease insurance.

25 SEC. 5. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.